

THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION

RODOLFO HERNANDEZ,	§	
	§	
Plaintiff,	§	
	§	
v.	§	CIVIL ACTION NO. 4:16-cv-2713
	§	
URBANSCAPES, LLC,	§	
RUSTICSCAPES, LLC,	§	
INDIVIDUALLY AND AS SUCCESSOR	§	
IN INTEREST TO URBANSCAPES,	§	
LLC, STEVEN ACQUARD,	§	
INDIVIDUALLY, JAMES J.	§	
ECONOMY, INDIVIDUALLY, and	§	
INDIVIDUALLY,	§	
BRANDON INMAN, INDIVIDUALLY,	§	
	§	
Defendants.	§	

PLAINTIFF'S ORIGINAL COMPLAINT

SUMMARY OF SUIT

1. Plaintiff Rodolfo Hernandez ("Hernandez") was formerly employed by Defendants Urbanscapes, LLC, Rusticscapes, LLC, (individually and as successor in interest to Defendant Urbanscapes, LLC), Steven Acquard, Individually, Brandon Inman, Individually, and James J. Economy, Individually (the "Defendants") as a project manager.

2. Hernandez, a nonexempt employee, was paid a fixed daily rate regardless of the number hours he worked each workweek. Hernandez was not paid one and one-half (1½) times his regular hourly rate for hours worked in excess of forty (40) hours each workweek.

3. Accordingly, Hernandez seeks to recover unpaid wages,

unpaid overtime wages, liquidated damages, and attorneys' fees owed to him under the Fair Labor Standards Act, 29 U.S.C. § 216(b) (2016) ("FLSA").

#### JURISDICTION AND VENUE

4. This Court has subject matter jurisdiction under 29 U.S.C. § 216(b) (2016) and 28 U.S.C. § 1331 (2016).

5. Hernandez brings this action in the district in which he and the Defendants reside and/or where a substantial portion of the conduct charged herein occurred. Accordingly, venue is proper in this district pursuant to 28 U.S.C. § 1391(b) (2016).

#### THE PARTIES

6. Hernandez is an individual residing in Harris County, Texas. Hernandez was employed by the Defendants within the meaning of the FLSA during the three-year period preceding the filing of this complaint. In performing his duties for the Defendants, Hernandez engaged in commerce or in the production of goods for commerce.

7. Defendant Urbanscapes, LLC ("Urbanscapes") is a Texas limited liability company with its principal place of business in Harris County, Texas. Urbanscapes is an enterprise engaged in commerce within the meaning of the FLSA and has acted, directly or indirectly, in the interest of an employer with respect to Hernandez. Urbanscapes may be served with process by serving its registered agent and president, Steven Acquard, 5017 Creekmont Drive, Houston, Texas 77091.

8. Defendant Rusticscapes, LLC, individually and as successor in interest to Urbanscapes ("Rusticscapes"), is a Texas limited liability company doing business in Houston, Harris County, Texas, with its principal place of business in Bellville, Texas. Rusticscapes is an enterprise engaged in commerce within the meaning of the FLSA and has acted, directly or indirectly, in the interest of an employer with respect to Hernandez. Rusticscapes may be served with process by serving its registered agent and chief operating officer, James J. Economy, 2329 Hillview Road, Bellville, Texas 77418.

9. Defendant Brandon Inman ("Inman"), an officer, director and/or member of Rusticscapes, has acted, directly or indirectly, in the interest of an employer with respect to Hernandez. Inman may be serve with process at 2329 Hillview Road, Bellville, Texas 77418.

10. Defendant James J. Economy ("Economy"), an officer, director, and/or member of Rusticscapes, has acted, directly or indirectly, in the interest of an employer with respect to Hernandez. Economy may be serve with process at 2329 Hillview Road, Bellville, Texas 77418.

11. Defendant Steven Acquard ("Acquard"), an officer, director and/or member of Urbanscapes, has acted, directly or indirectly, in the interest of an employer with respect to Hernandez. Acquard may be serve with process at 5017 Creekmont Drive, Houston, Texas 77091.

BACKGROUND

12. Urbanscapes is a full services landscape design and installation company focusing primarily in the Houston area. It is owned and operated by Defendant Steven Acquard.

13. Rusticscapes is a multifaceted landscape company located in Bellville, Texas and servicing the Bellville, Brenham and Chapel Hill areas.

14. According to Rusticscapes' website, it recently acquired Urbanscapes and advertises Urbanscapes as its new "innerloop division." Rusticscapes is owned and operated by Defendants Brandon Inman and James J. Economy.

15. Hernandez worked for Urbanscapes from 2008 until he became employed by Rusticscapes in 2016. Hernandez worked as a project manager for both companies performing the same duties and responsibilities through the Urbanscapes' business location.

16. Specifically, Hernandez generally worked approximately twelve (12) hours per day, six (6) days per week and was paid a fixed daily rate. At the time of his separation from employment with the Defendants, Hernandez was paid approximately \$120.00 per day.

17. Unfortunately, Hernandez, a non-exempt employee, was not paid one and one-half (1½) his regular hourly rate for hours worked over forty (40) hours per week.

18. As a result of its acquisition of Urbanscapes, Rusticscapes is liable for Urbanscapes' failure to pay Hernandez

overtime compensation for his overtime hours worked as the successor in interest to Urbanscapes.

19. Alternatively, Urbanscapes and Rusticscapes (collectively, the "Company") function as a single enterprise as defined in the FLSA. Specifically, they: 1) engage in related activities; 2) are a unified operation or are under common control; and 3) share a common business purpose.

20. Inman, Acquard and Economy have a substantial financial interest in the Company and are directly involved in:

- a. the hiring and firing of the Company's employees;
- b. the day-to-day operations as they relate to defining the terms of employment, workplace conditions, and the level of compensation to be received by the Company's employees;
- c. the Company's finances; and
- d. the Company's business decisions.

#### CAUSES OF ACTION

##### Failure to Pay Overtime Compensation

21. The Defendants' failure to pay Hernandez for hours worked over forty (40) hours per workweek at one and one-half (1½) times his regular rate of pay was and is in violation of the FLSA.

22. No exemption excuses the Defendants from paying Hernandez overtime compensation for his overtime hours worked. Nor have the Defendants made a good faith effort to comply with the FLSA. Instead, the Defendants knowingly, willfully, or with reckless disregard carried out an illegal pattern or practice regarding

overtime compensation with respect to Hernandez.

23. Accordingly, Hernandez is entitled to unpaid overtime pay in an amount which is one and one-half (1½) times his regular rate of pay.

24. Additionally, Hernandez is entitled to an amount equal to all of his unpaid overtime wages as liquidated damages.

25. Finally, Hernandez is entitled to reasonable attorneys' fees and costs of this action pursuant to 29 U.S.C. § 216(b) (2016).

PRAYER

WHEREFORE, Hernandez requests that this Court award him judgment against Defendants Urbanscapes, LLC, Rusticscapes, LLC, Individually and as successor in interest to Urbanscapes, LLC, Steven Acquard, Individually, Brandon Inman, Individually, and James J. Economy, Individually, jointly and severally, for the following:

- a. damages for the full amount of his unpaid overtime compensation;
- b. an amount equal to his unpaid overtime compensation as liquidated damages;
- c. reasonable attorneys' fees, costs and expenses of this action;
- d. pre-judgment interest and post-judgment interest at the highest rates allowable by law; and
- f. such other and further relief as may be allowed by law.

Respectfully submitted,

/S/ Mark Siurek  
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